

## 21 C.J.S. Courts § 226

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### Courts

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### VI. Rules of Adjudication, Decisions, and Opinions

#### B. Stare Decisis

#### 4. Dicta

## § 226. Judicial dicta

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### West's Key Number Digest

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**Judicial dictum is an expression of opinion on a point involved in a case, argued by counsel and deliberately mentioned by the court, and is generally considered authoritative despite technically being dicta.**

"Judicial dictum" is a statement the court expressly uses to guide parties in their future conduct.<sup>1</sup> As a general rule, such an expression of opinion on a point involved in a case, argued by counsel and deliberately mentioned by the court, although not essential to the disposition of the case, is distinguished from mere obiter dictum,<sup>2</sup> and it becomes authoritative when it is expressly declared by the court as a guide for future conduct.<sup>3</sup> Thus, a judicial dictum should receive dispositive weight in a lower court.<sup>4</sup> Conversely, a court is not bound to follow dicta in a prior case that did not fully debate the point currently at issue.<sup>5</sup>

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### Footnotes

<sup>1</sup> Ariz.—*Alejandro v. Harrison*, 223 Ariz. 21, 219 P.3d 231 (Ct. App. Div. 1 2009).

<sup>2</sup> Ill.—*Hawes v. Luhr Bros., Inc.*, 212 Ill. 2d 93, 287 Ill. Dec. 583, 816 N.E.2d 345 (2004).

N.J.—*In re County of Atlantic*, 2016 L.R.R.M. (BNA) 71154, 2016 WL 931269 (N.J. Super. Ct. App. Div. 2016).

- 3 Wis.—*State v. Holt*, 128 Wis. 2d 110, 382 N.W.2d 679 (Ct. App. 1985).
- Ariz.—*Alejandro v. Harrison*, 223 Ariz. 21, 219 P.3d 231 (Ct. App. Div. 1 2009).
- N.J.—*West Milford Tp. v. Garfield Recreation Committee, Inc.*, 194 N.J. Super. 148, 476 A.2d 333 (Law Div. 1983).
- Wis.—*State v. Koput*, 142 Wis. 2d 370, 418 N.W.2d 804 (1988).
- 4 Ill.—*Hawes v. Luhr Bros., Inc.*, 212 Ill. 2d 93, 287 Ill. Dec. 583, 816 N.E.2d 345 (2004).
- 5 U.S.—*Central Virginia Community College v. Katz*, 546 U.S. 356, 126 S. Ct. 990, 163 L. Ed. 2d 945 (2006).

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